

REMARKS

Claims 111-121, 149, 152, and 159-161 are currently pending in this application. Claims 111 and 149 are amended herein. Claim 112 has been canceled and new claims 163-165 have been added. Support for the amended and newly added claims can be found throughout the specification, *inter alia*, at pages 30-31, and the claims as originally filed. No new matter is presented by the amendments. Accordingly, applicants respectfully request entry of the amendments and reconsideration of pending claims 111, 113-121, 149, 152, 159-161, and 163-165 in light of the following remarks.

Additionally, upon the allowance of generic claims, applicants respectfully request consideration of additional species as provided by 37 C.F.R. §1.141.

Double Patenting Rejections

On page 4 of the Office Action (“the Action”), claims 111-121, 149, 152, and 159-161 are provisionally rejected on the ground of non-statutory obviousness-type double patenting as allegedly being unpatentable over claims 1, 22, 35, 36, and 56 of co-pending Application No. 10/792,273 (“the ‘273 application”).

This rejection is a provisional double patenting rejection, for which the M.P.E.P. at § 1504.06 provides as follows:

If a provisional double patenting rejection (of any type) is the only rejection remaining in two conflicting applications, the examiner should withdraw that rejection in one of the applications (e.g., the application with the earlier filing date) and permit the application to issue as a patent. The examiner should maintain the provisional double patenting rejection in the other application which rejection will be converted into a double patenting rejection when the first application issues as a patent. If more than two applications conflict with each other and one is allowed, the remaining applications should be cross rejected against the others as well as the allowed application. For this type of rejection to be appropriate, there must be either at least one inventor in common, or a common assignee. If the claims in copending design applications or a design patent and design applications have a common assignee but different inventive entities, rejections under 35 U.S.C. 102(e), (f) and (g)/103(a) must be considered in addition to the double patenting rejection. See MPEP Section 804, Section 2136, Section 2137 and Section 2138.

Applicants have canceled claim 112, thereby rendering this rejection moot as applied to that claim. In addition, applicants respectfully request that the Examiner reconsider and withdraw this rejection as applied to claims 111, 113-121, 149, 152, and 159-161, because this is a provisional rejection, the co-pending application has not yet been allowed, and claims 111, 113-121, 149, 152, and 159-161 are in condition for allowance (*see*, MPEP §1504.06).

Rejections Under 35 U.S.C. § 102

On pages 5-6 of the Action, claims 111-115, 149, and 152 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 4,137,397 (“Dutta”). Applicants respectfully traverse this rejection.

Dutta discloses a process for the preparation of erythromycin aldobionates such as erythromycin maltobionate, erythromycin cellobionate, and erythromycin melibionate. Applicants have cancelled claim 112, thereby rendering this rejection moot as applied to claim 112. In addition, claims 111 and 149 do not recite a composition comprising cellobionic acid or melibionic acid. Dutta does not disclose a composition or antioxidant composition comprising the aldobionic acids recited in claims 111 and 149. Dutta therefore fails to anticipate claims 111 and 149. For at least these reasons, dependent claims 113-115 and 152 also are not anticipated by Dutta. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw the rejection as applied to claims 111-115, 149, and 152.

Applicants respectfully submit that Dutta does not anticipate newly added claims 163-165. Claim 163 recites a topical cosmetic composition comprising a topically acceptable vehicle. Dutta discloses erythromycin aldobionates for oral use. Dutta does not disclose a composition comprising a topically acceptable vehicle. Dutta therefore fails to disclose every element in independent claim 163 and dependant claims 164 and 165. Accordingly, applicants respectfully submit claims 163-165 are in condition for allowance.

On pages 6-7 of the Action, claims 111, 112, 149, and 152 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,714,598 (“Toce”). Applicants respectfully traverse this rejection.

Toce discloses a process for making sulfated oligosaccharide amides, such as sulfated bis-cellobionic acid propylamide, having heparin-like properties. Applicants have cancelled claim 112, thereby rendering this rejection moot as applied to claim 112. Claims 111 and 149 do not recite a composition comprising cellobionic acid, and Toce fails to disclose a composition or antioxidant composition comprising the aldobionic acids recited in claims 111 and 149. Toce therefore fails to anticipate claims 111 and 149. For at least these reasons, dependent claims 113-115 and 152 also are not anticipated by Toce. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw the rejection as applied to claims 111-115, 149, and 152.

Applicants respectfully submit that Toce does not anticipate newly added claims 163-165. Claim 163 recites a topical cosmetic composition comprising a topically acceptable vehicle. Toce discloses sulfated oligosaccharide amides for oral administration. Toce does not disclose a composition comprising a topically acceptable vehicle. Toce therefore fails to disclose every element in independent claim 163 and dependant claims 164 and 165. Accordingly, applicants respectfully submit claims 163-165 are in condition for allowance.

On page 7 of the Action, claims 111, 112, 149, and 152 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by WO 95/05155 ("Moczar"). Applicants respectfully traverse this rejection.

Moczar discloses oligosaccharide derivatives, such as melibionic acid, for treating or preventing symptoms of connective tissue aging. Applicants have cancelled claim 112, thereby rendering this rejection moot as applied to claim 112. Independent claims 111 and 149 do not recite a composition comprising melibionic acid, and Moczar fails to disclose a composition or antioxidant composition comprising the aldobionic acids recited in claims 111 and 149. Moczar therefore fails to anticipate claims 111 and 149. For at least these reasons, dependent claims 113-115 and 152 also are not anticipated by Moczar. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw the rejection as applied to claims 111-115, 149, and 152.

Applicants respectfully submit that Moczar does not anticipate newly added claims 163-165. Claim 163 recites a topical cosmetic composition comprising cellobionic acid. Moczar does not disclose or suggest a composition comprising cellobionic acid. Moczar therefore fails to disclose every element in independent claim 163 and dependant claims 164 and 165. Accordingly, applicants respectfully submit claims 163-165 are in condition for allowance.

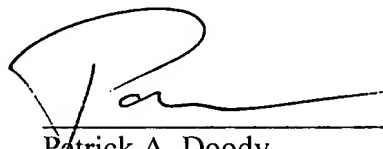
CONCLUSION

In view of the foregoing, applicants respectfully submit that the present claims are in condition for allowance. An early notice to this effect is earnestly solicited. Should there be any questions concerning the foregoing, or should the Examiner believe that a telephonic interview would serve to further advance prosecution of the claims, the Examiner is courteously invited to contact the undersigned at the telephone number listed below.

No additional fee is believed to be required for entry and consideration of this response. Nevertheless, in the event that the U.S. Patent and Trademark Office requires any additional fee to enter this response or to maintain the instant application pending, please charge such fee to the undersigned's Deposit Account No. 50-4494.

Respectfully submitted,

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